

### **REMARKS/ARGUMENTS**

This amendment is submitted in response to the Office Action dated December 15, 2004. After entry of this amendment, claims 1-17 will be pending in the application. Claim 3 has been amended to address a §112 issue and Claim 1 has been amended to further clarify language in the claim. Reconsideration and allowance is respectfully requested in view of the amendments made and the remarks made below.

#### **1. 35 U.S.C. §112, Second Paragraph Rejection**

Claim 3 was rejected in the Office Action under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

The Applicant has amended claim 3 to remove the language “gripping thereof” and to add the language “engagement therewith”. On page 5, last paragraph, of the Specification, it can be seen that the user of the Applicant’s device grips it with her palm and then rocks the device forwardly and rearwardly. Transverse ribs 4 located on the inner face of handle portion 1 provide labial and clitoral stimulation during this movement. The user of the device grips, or manually engages three of the four sides of the handle portion 1, and uses contours 3 in order to assist in gripping, or manually engaging the device. Contours 3 help the user to maintain her hold during use of the device. The language “manual engagement therewith” clearly conveys this action.

The Applicant respectfully submits that claim 3, as now amended, overcomes the rejection under §112, second paragraph, and requests notice to that effect.

#### **2. 35 U.S.C §102(b) Rejection**

Claims 1-2, and 4-6 were rejected under 35 U.S.C. §102(b) as being either anticipated by or rendered obvious by U.S. Patent No. 3,996,930 to Sekulich (hereinafter “Sekulich”). The Applicant submits that Sekulich fails to meet and every limitation of Claim 1.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Sekulich teaches having a V shaped device that has an anterior leg 11 and a posterior leg 13. The device is 3 inches long and 5/16 of an inch in diameter. See col. 2, lines 1-4. The device is used by being inserted into a vagina and is held in place by a woman's underwear. See col. 2, lines 40-41. The user controls the amount of stimulation desired through movements of the legs. The device further has a bulbous bearing head 28 that is located at the end of posterior leg 12.

Claim 1 as amended requires an outer face grippable to manipulate the implement. The user of the Applicant's device holds it by using handle portion 1 and contours 3. The user, upon gripping the device, manipulates the device in order to provide stimulation. Sekulich does not teach having a user manually manipulate a device and instead requires that the V shaped device be used while the user's legs are in a side-by-side position while walking, standing, or sitting with knees forward. See col. 2, lines 42-45. The device can then provide stimulus to clitoris via movement of the user's legs. Sekulich does not teach having an outer face grippable to manipulate the implement. For at least this reason Sekulich does not teach every limitation of claim 1.

Additionally, Sekulich does not teach having a “shaft portion being curved re-entrantly at its distal end to form a smooth nosed hook extending generally towards a distal end of the handle portion”. The Applicant's invention, as shown in Figure 1, shows having a curved shaft portion 2 with a hook shape 5, designed for reentry. As described on page 6, second paragraph, the hook shape 5 and shaft portion 2 are curved so that it can stimulate the G-spot. The portion of Sekulich's device that is used for entering a woman is not re-entrantly curved shaped. Posterior leg 13 is simply straight. Head 28 is not hook shaped either and instead is bulbous shaped. Furthermore, posterior leg 13 is not designed to stimulate the G-spot, Sekulich does not even mention the G-spot in the disclosure. Therefore, Sekulich does not teach the limitation of having a “shaft portion being curved re-entrantly at its distal end to form a smooth nosed hook extending generally towards a distal end of the handle portion”. For at least this reason Sekulich does not teach every limitation of claim 1.

Furthermore, it is not obvious to provide such a shape since the Applicant's use of such a shape is for stimulating the G-spot while Sekulich appears not to be concerned with achieving this goal.

For the above reasons, the Applicant respectfully submits that Sekulich does not meet each and every limitation of claim 1. Furthermore, it would not have been obvious to modify Sekulich in order to obtain the Applicant's device since Sekulich's device is not used in the same manner or for some of the same purposes as the Applicant's device. The Applicant respectfully requests allowance of claim 1. The Applicant further submits that claims 2, and 4-6 are also in condition for allowance by virtue of their dependence upon an allowable base claim.

### **3. 35 U.S.C §103(a) Rejections**

Claims 7-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sekulich in view of U.S. Patent No. 6,350,230 to Kontos. The Applicant respectfully submits that claims 7-14 depend either directly or indirectly upon claim 1 and are therefore allowable for the reasons provided above for the allowability of claim 1.

Claim 15 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sekulich in view of U.S. Patent No. 6,132,366 to Ritchie et al. The Applicant respectfully submits that claim 15 depends upon claim 1 and is therefore allowable for the reasons provided above for the allowability of claim 1.

Claims 16-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sekulich in view of U.S. Patent No. 5,853,362. The Applicant respectfully submits that claims 16-17 depend either directly or indirectly upon claim 1 and are therefore allowable for the reasons provided above for the allowability of claim 1.

**4. Conclusion**

The Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he is respectfully invited to telephone the undersigned at 215-599-0600.

Respectfully submitted,

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Date: 5/11/05

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